UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/811,161	03/16/2001	Frederick William Strahm	10559/423001/P10437	5789

20985   7590   10/27/2005

FISH & RICHARDSON, PC
12390 EL CAMINO REAL
SAN DIEGO, CA 92130-2081

EXAMINER
PATEL, ASHOKKUMAR B

ART UNIT	PAPER NUMBER
2154	

DATE MAILED: 10/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>26 September 2005</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

    a) ☐ The period for reply expires _____months from the mailing date of the final rejection.

    b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

        Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

    (a)☒ They raise new issues that would require further consideration and/or search (see NOTE below);

    (b)☐ They raise the issue of new matter (see NOTE below);

    (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

    (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

        NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

    The status of the claim(s) is (or will be) as follows:

    Claim(s) allowed: _____.

    Claim(s) objected to: _____.

    Claim(s) rejected: _____.

    Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See Continuation Sheet.</u>

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.

13. ☐ Other: _____.

Continuation Sheet:

Rejection of Claims 1, 7, 11, 19, 23, 28 and 45 in view of Jawanda:

Applicant's argument:

"Jawanda does not disclose that, when the active connection is switched to the second connection, the second connection operates the information exchange protocol established for the first connection."

Examiner's Response:

Jawanda teaches in col. 5, line 32-34,"Thus, following block 120, the user has concurrent wireless data connections with both WWAN 10 and WLAN 12.

Applicant's argument:

" A conventional registration procedure would include establishing a information exchange protocol, as Jawanda explained earlier. Here again, in the method of claim 1, the need for a conventional registration procedure is alleviated, because the second connection (if selected as active) can merely continue operating the information exchange protocol established for the first connection. Again, the method of claim 1 is novel and advantageous over that taught in Jawanda."

Examiner's Response:

Arguments are irrelevant to the subject matter claimed.

Rejection of Claim 3 in view of Jawanda:

Applicant's argument:

"Thus, Jawanda cannot anticipate a method in which the second connection is opened prior to establishing the information exchange protocol."

Examiner's Response:

Jawanda teaches in col. 4, line 61 through col. 5, line 61," As depicted at block

106, a determination can be made at any time following block 102 whether or not a

higher bandwidth data connection is available. The determination illustrated at block

106 can be made by WLAN interface 96, for example, which may periodically poll to

determine whether a connection can be obtained directly with WLAN 12 via wireless

network adapter 20. This polling behavior may entail WLAN interface 96 periodically

determining whether an "advertisement" message has been received by wireless LAN

adapter 64 from wireless network adapter 20. Alternatively, and less preferably since

mobile terminal 14 is typically powered by a limited life battery, the determination

illustrated at block 106 can represent WLAN interface 96 detecting whether an

"advertisement" message transmitted by wireless LAN adapter 64 has received a

response from WLAN interface 96. If a determination is made at block 106 that no

higher bandwidth data connection is available, the process passes to block 108, which

illustrates a determination of whether or not the session has been terminated by the

user or by application 90. If not, the process simply returns to block 104, which has

been described. If, however, a determination is made at block 108 that the session has

been terminated, the process passes to block 110, which illustrates network access

arbitrator 92 terminating all active wireless data connections. The process then ends at

block 150. Returning to block 106, in response to a determination that a higher

bandwidth data connection (i.e., a direct connection to WLAN via wireless network

adapter 20) is available, for example, due to mobile terminal 14 being moved into the

service area of WLAN 12, the process proceeds to block 120. Block 120 depicts mobile

terminal 14 establishing a second wireless data connection by logging on to WLAN 12

via wireless network adapter 20. To logon to WLAN 12, mobile terminal 14 performs

the conventional registration procedures dictated by the network and followed by fixed

terminals 24, except that logon information is conveyed between mobile terminal 14 and

wireless LAN adapter 64 by wireless communication. Thus, following block 120, the

user has concurrent wireless data connections with both WWAN 10 and WLAN 12.

Then, as depicted at block 122, network access arbitrator 92 causes the transfer of

datagrams to be seamlessly handed off from the wireless connection with WWAN 10 to

the wireless connection with WLAN 12 while maintaining the session between

applications 90 and 91. Thus, following block 122, datagrams are routed between

application 90 and application 91 utilizing the higher bandwidth data path between

WLAN interfaces 96 rather than between CAIs 94, as shown at block 124. "

Thus, Jawanda anticipates a method in which the second connection is opened

prior to establishing the information exchange protocol."

Rejection Claims 8, 10,18, 21, 26, and 46 in view of Bernet and Jawanda:

Applicant's argument:

Claim 10 has been amended to depend from claim 8.

Examiner's Response:

Further consideration and/or search is required as the amendment raises new issues.

Rejection of Claim 38 in view of Jawanda:

Applicant's argument:

"Nothing in Jawanda teaches or suggests a device that detects its own geographic position and can anticipate changes in connectivity."

Examiner's Response:

Jawanda anticipates in Col. 5, line 20-25," Returning to block 106, **in response to a determination that a higher bandwidth data connection** (i.e., a direct connection to WLAN via wireless network adapter 20) **is available**, for example, **due to mobile terminal 14 being moved into the service area of WLAN 12,** the process proceeds to block 120. Block 120 depicts mobile terminal 14 establishing a second wireless data connection by logging on to WLAN 12 via wireless network adapter 20.", and in col. 5, line 48-55, "The **determination made at block 126 can be based on one or more factors, including the number of transmission errors detected by WLAN interface 96 and the received signal strength (RSS) of signals** received by wireless LAN adapter 64."

Thus Jawanda's device that detects its own geographic position and can anticipate changes in connectivity.

Rejection of Claims 39 and 40 in view of Jawanda:

Applicant's argument:

"In fact, Jawanda makes no allowance for the possibility that, during a "handoff" the baton could be dropped. A common everyday problem with mobile telephones is that communication is momentarily interrupted, and the listener never recovers the missing (often critical) part of the speaker's sentence even when communication is later restored. Jawanda is silent as to how to overcome this difficulty. Thus, Jawanda cannot anticipate claims 39. and 40.

Examiner's Response:

Jawanda teaches in col. 5, line 32-34,"Thus, following block 120, the user has concurrent wireless data connections with both WWAN 10 and WLAN 12.